

regional and district offices and at Internal Revenue Service compliance and service centers.

(h) *Effective Date.* These regulations are effective as of March 20, 1992.

[T.D. 8246, 54 FR 11700, Mar. 22, 1989, as amended by T.D. 8403, 56 FR 9977, March 23, 1992]

MISCELLANEOUS PROVISIONS

§ 301.9000-1 Procedure to be followed by officers and employees of the Internal Revenue Service upon receipt of a request or demand for disclosure of internal revenue records or information.

(a) *Authority.* The provisions of this section are prescribed under the authority of 5 U.S.C. 301; section 2 of the Reorganization Plan No. 26 of 1950, 64 Stat. 1280; 18 U.S.C. 1905; section 2(g) of the Federal Alcohol Administration Act (27 U.S.C. 202(c)); and sections 5274, 6103, 6104, 6106, 6107, 7213, 7237(e), 7803, and 7805 of the Internal Revenue Code of 1954.

(b) *Definitions.* When used in this section—

(1) *Internal revenue records or information.* The term “internal revenue records or information” means any records (including copies thereof) or information, made or obtained by, furnished to, or coming to the knowledge of, any officer or employee of the Internal Revenue Service while acting in his official capacity, or because of his official status, with respect to the administration of the internal revenue laws or any other laws administered by or concerning the Internal Revenue Service.

(2) *Internal revenue officer and employee.* The term “internal revenue officer and employee” means all officers and employees of the United States, engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the Internal Revenue Service, appointed or employed by, or subject to the directions, instructions or orders of, the Secretary of the Treasury or his delegate.

(3) *Demand.* The term “demand” means any subpoena, notice of deposition either upon oral examination or written interrogatory, or other order,

of any court, administrative agency, or other authority.

(c) *Disclosure of internal revenue records or information prohibited without prior approval of the Commissioner.* The disclosure, including the production, of internal revenue records or information to any person outside the Treasury Department or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the Commissioner. However, nothing in this section shall restrict the disclosure of internal revenue records or information which the Commissioner has determined is authorized under any provision of statute, Executive order, or regulations, or for which a procedure has been established by the Commissioner. For example, this section does not restrict the inspection of returns and approved applications for tax exemption inspection of which is governed by sections 6103 and 6104 of the Code and the Executive orders and regulations issued thereunder, nor does it restrict the disclosure of internal revenue records or information which is requested by U.S. attorneys or attorneys of the Department of Justice for use in cases which arise under the internal revenue laws or related statutes and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(d) *Delegation to Commissioner of authority to determine disclosure and establish procedures; procedure in the event of a request or demand for disclosure—*(1) *Delegation to Commissioner.* The Commissioner is hereby authorized to determine whether or not officers and employees of the Internal Revenue Service will be permitted to disclose internal revenue records or information in response to:

(i) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information, or

(ii) A demand for the disclosure of such records or information.

The Commissioner is also authorized to establish such procedures as he may deem necessary with respect to the disclosure of internal revenue records or

information by internal revenue officers and employees. Any determination by the Commissioner as to whether internal revenue records or information will be disclosed, or any procedure established by him in connection therewith, will be made in accordance with applicable statutes, Executive orders, and regulations, and such instructions as may be issued by the Secretary or his delegate. Notwithstanding the preceding provisions of this subparagraph, the Commissioner shall, where either he or the Secretary deems it appropriate, refer the opposing of a request or demand for disclosure of internal revenue records or information to the Secretary.

(2) *Procedure in the event of a request or demand for internal revenue records or information*—(i) *Request procedure*. Any officer or employee of the Internal Revenue Service who receives a request for internal revenue records or information, the disposition of which is not covered by a procedure established by the Commissioner, shall promptly communicate the contents of the request to the Commissioner through the appropriate supervisor for the district or region in which he serves. Such officer or employee shall await instructions from the Commissioner concerning the response to the request. For the procedure to be followed in the event a person making a request seeks to obtain a court order or other demand requiring the production of internal revenue records or information, see subdivision (ii) of this subparagraph.

(ii) *Demand procedure*. Any officer or employee of the Internal Revenue Service who is served with a demand for internal revenue records or information, the disposition of which is not covered by a procedure established by the Commissioner, shall promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the Commissioner through the appropriate supervisor for the district or region in which he serves. Such officer or employee shall await instructions from the Commissioner concerning the response to the demand. If it is determined by the Commissioner that the demand should be opposed, the U.S. attorney, his as-

sistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the Commissioner has instructed the officer or employee to refuse to disclose the internal revenue records or information sought. If instructions have not been received from the Commissioner at the time when the officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to appear with the officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the Commissioner, or declines to defer a ruling until instructions from the Commissioner have been received, the officer or employee upon whom the demand has been served shall, pursuant to this section, respectfully decline to disclose the internal revenue records or information sought.

(e) *Record of seizure and sale of real estate*. Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors of internal revenue and copies are furnished upon application.

(f) *State liquor, tobacco, firearms, or explosives cases*. Assistant Regional Commissioners (alcohol, tobacco and firearms) or the Director, Bureau of Alcohol, Tobacco and Firearms Division may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize special investigators and other employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party, produce records, and testify as to facts coming to their knowledge in their official capacities: *Provided*, That such production or testimony will not divulge information contrary to section 7213 of the Code, nor divulge information subject to the

restrictions in section 5848. See also 18 U.S.C. 1905.

(g) *Penalties.* Any officer or employee of the Internal Revenue Service who disobeys the provisions of this section will be subject to dismissal and may incur criminal liability.

(h) *Disclosure of economic stabilization matters.* (1) The Commissioner, in his discretion, is specifically authorized to divulge or disclose to a complainant or to an individual with specific knowledge of a complaint, the nature and result of the investigation of said complaint in circumstances where no violation has been found.

(2) The provisions of this paragraph are prescribed under the authority of the Economic Stabilization Act of 1970, as amended, Pub. L. 91-379, 84 Stat. 799; Pub. L. 91-558, 84 Stat. 1468; Pub. L. 92-8, 85 Stat. 13; Pub. L. 92-15, 85 Stat. 38; Pub. L. 92-210, 85 Stat. 743; Executive Order No. 11627, as amended; Cost of Living Council Order No. 5, 36 FR 21798; Pay Board Order No. 1, 36 FR 21798; Price Commission Order No. 1, 36 FR 21798, § 102.4 of chapter I of title 6.

(i) *Effective date.* The provisions of this section are applicable to any request or demand for internal revenue records or information received by any officer or employee of the Internal Revenue Service after June 15, 1967 (except for paragraph (h) of this section, the provisions of which shall be applicable after January 31, 1972).

[32 FR 15241, Nov. 3, 1967, as amended by 37 FR 2481, Feb. 1, 1972; T.D. 7188, 37 FR 12797, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976]

§ 301.9001 Statutory provisions; Outer Continental Shelf Lands Act Amendments of 1978.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) provides as follows:

Sec. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed \$200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be adminis-

tered by the Secretary¹ and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) All fees collected pursuant to subsection (d) of this section; and

(2) All other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) Removal costs described in section 301(22);

(2) The processing and settlement claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) Subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetyth day following the date such regulation is published in the FEDERAL REGISTER. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed \$10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and

¹“Secretary” wherever used in this section means the Secretary of Transportation.